

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Closed Captioning and Video Description of
Video Programming

Implementation of Section 305 of the
Telecommunications Act of 1996

Video Programming Accessibility

MM Docket No. 95-176

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**COMMENTS OF
GREENE COMMUNICATIONS, INC.**

On behalf of Greene Communications, Inc. ("Greene"), we hereby submit these Comments in response to the Commission's *Notice of Proposed Rule Making* ("NPRM") in the captioned proceeding, which proposes ultimately to require closed captioning of all programming by all "providers" of video programming, which would include (absent an exemption) the low power television ("LPTV") service provided by Greene on its LPTV station, W06BH, in Phenix City, Alabama. Although Section 713 of the Communications Act, 47 U.S.C. § 613, permits the Commission to exempt "services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming," no such exemption has yet been proposed for either LPTV or instructional programming (as is carried by W06BH). It is critical for the Commission to recognize not only the hardships that a closed captioning requirement would impose on Greene, but also that the effects of such a requirement would greatly disserve the

public interest, contrary to the Commission's goals in establishing a closed captioning requirement.

As indicated above, Greene has one LPTV station, W06BH, in Phenix City, Alabama. This LPTV station is programmed by a local community college. This programming is done on a very low budget and is completely noncommercial. The time is donated by Greene to provide instructional programming by the college.

A closed captioning requirement for this station would undoubtedly put an end to this programming. A community college cannot afford the costs of closed captioning, estimated by the Commission to be between \$800 - \$2,500 per hour of programming and from \$120 - \$1,200 per hour of live programming. *NPRM* ¶¶ 18, 20. Neither Greene nor the college can absorb these costs in connection with noncommercial instructional programming.

In 1994, the Commission recognized that the "hallmarks of the LPTV service are TV 'localism' and specialized 'niche' programming." *First Report and Order* in MM Docket No. 93-114, 9 F.C.C. Rcd. 2555 ¶ 2 (1994). Congressman Markey stated that, "low-power television stations that originate programming often provide the only local television service to small communities and to minority, ethnic and specialized interest groups We should encourage the development of these low power stations." 136 Cong. Rec. H. 7249-02, 7266 (1990). Senator Leahy stated, "the public interest will be well served by fulfilling the promise of low power television to expand the choices and viewpoints available to television viewers." 123 Cong. Rec. S. 11109-01 (1986).

Channel W06BH in Phenix City, Alabama is performing exactly the type of service recognized as beneficial by Congress and the Commission. There is no full power

television station licensed to Phenix City, nor could any full power TV station afford to provide the type of community service instructional programming provided by W06BH on a noncommercial basis.

A legislative history of Section 713 clearly demonstrates that Congress intended that the Commission should exempt certain classes or types of programming based on 1) the nature and cost of providing closed captions; (2) the financial resources of the programmer; and (3) the cost of the captioning, considering the relative size of the audience served or the audience share. H.R. Rep. 104-204, 104th Cong., 1st Sess. at 114-15 (1995).

In its *NPRM*, the Commission stated, "[w]e seek to establish a general classification or a number of general classifications for programming for which captioning would be economically burdensome. . . . " *NPRM* ¶ 71. In speaking specifically about instructional programming, the Commission recognized that "a captioning requirement may be economically burdensome to the program's providers or owners and might result in the loss of such programming." *NPRM* ¶ 76.

While the intent to provide closed captioned programming to the hearing impaired is certainly a noble one, the Commission cannot lose sight of the forest for the trees. The college that provides programming on W06BH certainly would be in the best position to determine whether or not closed captioning of its programming is economically feasible and would provide a viable or useful service to hearing impaired students within Phenix City. However, if a closed captioning requirement meant that the college could no longer provide its instructional programming, then no purpose is served by such a requirement. Indeed, the

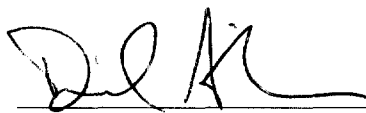
loss of this programming due to a closed captioning requirement would mean that the requirement had actually resulted in a *loss* of public interest educational programming.

If the Commission does not exempt LPTV stations or instructional programming or both from the closed captioning requirements, W06BH will certainly be back requesting a waiver once such requirements are imposed. However, it is administratively more efficient and less costly to grant exemptions where they are clearly warranted at this stage of the proceeding, than to deal with numerous individual requests for waiver following implementation of the rules. The proposed exemption for LPTV and/or instructional programming is certainly within the power granted to the Commission and is consistent with both Congressional intent and the public interest.

For the foregoing reasons, we respectfully request the Commission to exempt LPTV and/or instructional programming from its proposed closed captioning requirements.

Respectfully submitted,

GREENE COMMUNICATIONS, INC.

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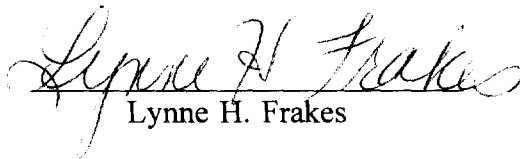
DECLARATION

I, Lynne H. Frakes, hereby declare as follows:

1. I am the Vice President/Manager for Greene Communications, Inc.
2. I have read the foregoing pleading and all the facts set forth therein are true and correct to the best of my knowledge, information and belief.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated this 26th day of March 1997.


Lynne H. Frakes